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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

RALPH GARBARINI, ) Case No.: 1:14-cv-01058-AWI-SAB (PC)  
)  
Plaintiff, )  
)  
v. ) FINDINGS AND RECOMMENDATION  
) REGARDING PLAINTIFF’S REQUEST FOR  
) ACCESS TO THE LAW LIBRARY  
)  
WAYNE ULIT, et al., ) [ECF No. 17]  
)  
Defendants. )  
)  
)  
)

Plaintiff Ralph Garbarini is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.

On March 27, 2015, Plaintiff filed a declaration in which he requests access to the law library to prosecute the instant action. (ECF No. 17.) The Court construes Plaintiff’s request as a motion for a preliminary injunction.

**I.  
DISCUSSION**

A preliminary injunction should not issue unless necessary to prevent threatened injury that would impair the court’s ability to grant effective relief in a pending action. “A preliminary injunction ... is not a preliminary adjudication on the merits but rather a device for preserving the status quo and preventing the irreparable loss of right before judgment.” Sierra On-Line, Inc. v. Phoenix Software, Inc., 739 F.2d 1415, 1422 (9th Cir. 1984). A preliminary injunction represents the exercise of a far

1 reaching power not to be indulged except in a case clearly warranting it. Dymo Indus. V. Tapeprinter,  
2 Inc., 326 F.2d 141, 143 (9th Cir. 1964). “The proper legal standard for preliminary injunctive relief  
3 requires a party to demonstrate ‘that he is likely to succeed on the merits, that he is likely to suffer  
4 irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and  
5 that an injunction is in the public interest.’” Stormans, Inc., v. Selecky, 586 F.3d 1109, 1127 (9th Cir.  
6 2009), quoting Winter v. Natural Res. Def. Council, Inc., 555 U.S. 7 (2008). In cases brought by  
7 prisoners involving conditions of confinement, any preliminary injunction “must be narrowly drawn,  
8 extend no further than necessary to correct the harm the court finds requires preliminary relief, and be  
9 the least intrusive means necessary to correct the harm.” 18 U.S.C. § 3626(a)(2).

10 Inmates have a fundamental constitutional right of access to the courts. Lewis v. Casey, 518  
11 U.S. 343, 346 (1996); Silva v. Di Vittorio, 658 F.3d 1090, 1101 (9th Cir. 2011); Phillips v. Hust, 588  
12 F.3d 652, 655 (9th Cir. 2009). However, to state a viable claim for relief, Plaintiff must show that he  
13 suffered an actual injury, which requires “actual prejudice to contemplated or existing litigation.”  
14 Nevada Dep’t of Corr. v. Greene, 648 F.3d 1014, 1018 (9th Cir. 2011) (citing Lewis, 518 U.S. at 348)  
15 (internal quotation marks omitted); Christopher v. Harbury, 536 U.S. 403, 415 (2002); Lewis, 518  
16 U.S. at 351; Phillips, 588 F.3d at 655.

17 In this instance, Plaintiff has failed to demonstrate that in the absence of preliminary injunctive  
18 relief he is likely to suffer actual injury in prosecuting his case. “Speculative injury does not constitute  
19 irreparable injury sufficient to warrant granting a preliminary injunction.” Caribbean Marine Servs.  
20 Co. v. Baldridge, 844 F.2d 668, 674 (9th Cir. 1988), citing Goldies Bookstore, Inc. v. Superior Court,  
21 739 F.2d 466, 472 (9th Cir. 1984). To the extent Plaintiff is unable to meet a court deadline due to  
22 limited access to the law library he may file a motion to extend the time to comply with such  
23 deadlines, if and when the needs arises. Plaintiff has provided no basis for this court to interfere with  
24 the prison’s administration of its law library, and his request for injunctive relief should be denied.

## 25 II.

### 26 RECOMMENDATION

27 Based on the foregoing, it is HEREBY RECOMMENDED that Plaintiff’s request for a court  
28 order to gain access to the law library be denied.

1 This Findings and Recommendation will be submitted to the United States District Judge  
2 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within **twenty (20)**  
3 **days** after being served with this Findings and Recommendation, the parties may file written  
4 objections with the Court. The document should be captioned “Objections to Magistrate Judge’s  
5 Findings and Recommendation.” The parties are advised that failure to file objections within the  
6 specified time may result in the waiver of rights on appeal. Wilkerson v. Wheeler, 772 F.3d 834, 838-  
7 39 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).

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9 IT IS SO ORDERED.

10 Dated: March 30, 2015



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UNITED STATES MAGISTRATE JUDGE